



State of Delaware
PUBLIC SERVICE COMMISSION
861 Silver Lake Blvd, Suite 100
Dover, Delaware 19904

Telephone: (302) 736-7500
Fax: (302) 739-4849

October 14, 2014

TO: The Chair and Members of the Commission

FROM: Robert J. Howatt, Executive Director

SUBJECT: REQUEST FOR COMMISSION DECLARATION OF CRITICAL HUMAN RESOURCE NEEDS TO ENSURE THE CONTINUITY AND EFFECTIVE OPERATION OF THE PUBLIC SERVICE COMMISSION

Staff Request

The effective and efficient operation of the Commission is dependent on many factors, but most important is the administrative, analytical, engineering and legal personnel that form the Commission's human resource team. While all staff positions are important, the prolonged absence of staff in certain positions can have a deleterious impact on routine Commission operations and/or major case procedural schedules as required by Commission order or statute. To ensure these impacts are minimized, the Executive Director requests the Commission identify those critical positions in which qualified Staff replacements should always be considered in an expeditious manner.

After review of the current staff positions and related duties, the Executive Director recommends several positions for the Commission's consideration as critical need positions and ones for which an expeditious replacement will help maintain the efficiency and effectiveness of Commission operations. Those position are the Secretary of the Commission, the Administrative Specialist II, the Administrative Specialist I, the Senior Hearing Examiner, the Paralegal I, and the Engineer IV. The responsibilities and duties of these positions can have a major impact on the continuing operation of the Commission and should be declared a critical staffing need for expeditious replacement upon any vacancy.

Background:

On June, 29, 2014, the Commission's Administrative Specialist I position was vacated due to the incumbent employee accepting a position in a different State agency. In similar fashion, on August 22, 2014, the Commission's Paralegal II position was vacated due to the employee accepting a position in a different State agency. On August, 1, 2014, the Commission Secretary submitted a request, including justification, to replace the Administrative Specialist I to the Department of State Human Resources team. On August 8, 2014 the Secretary submitted a request, including justification, to replace the Paralegal II to the Department of State Human Resources team. In early September, those requests were denied. On September 11, 2014, the Commission Secretary again submitted those positions with additional revised justification for replacement. Most recently, on October 7, 2014, those replacements were again denied. As a result of those denials, and the commitments of other staff members, it was necessary to take the unprecedented action of canceling the second Commission meeting set for October, 28, 2014.

On October 9, 2014, the Executive Director and Commission Secretary participated in a conference call with Department of State Human Resources team in which it was indicated that agencies that have critical need positions should have identified those positions and the duties as they relate to the critical need. In response to that requirement, this memo requests the Commission to declare certain Commission staff positions as critical need positions.

Statutory Authority

29 *Del. C.* § 8717 and 26 *Del. C.* §108 provide the Commission with the authority to manage its necessary functions with considerable discretion on personnel issues as they may be required for the proper conduct of the Commission's work.

§ 8717 Division of Public Utility Control.

The Division of Public Utility Control is established within the Department of State having powers, duties and functions as follows:

- (1) The administrative, ministerial, budgetary and clerical functions, including but not limited to appointment, removal, compensation and duties of employees as provided by law, of the public service commission, except to the extent such powers, duties and functions are vested in the Public Service Commission under Chapter 1 of Title 26.
- (2) Such other powers and functions as the Secretary of State may assign which are not otherwise inconsistent with Title 26 or the other laws of the State.

§ 108 Personnel.

Subject to the provision of Title 29, Chapters 25 (Department of Justice) and 59 (Merit System of Personnel Administration), the Commission may appoint, fix the compensation and terms of service, and prescribe the duties and powers of an executive director, a secretary and such officers, accountants, attorneys, experts, engineers, inspectors, clerks and other persons, as it deems necessary for the proper conduct of the work of the Commission.

Request

The Executive Director requests the Commission declare the following positions as critical need for expeditious replacement when and if a vacancy occurs.

SECRETARY OF THE COMMISSION (BP2229PG15) – Within the employee merit structure, this position is classified as a “Support Services Administrator.” As applied at the Commission office, this position is responsible for all official Commission agendas, letters, orders, all legal documents, maintaining and archiving of all public documents, financial and legal oversight. Given the volume of materials that are received daily at the Commission and the level of coordination required for both administrative and financial oversight, even a short lived vacancy in this role will have a significant impact on the proper conduct of the Commission’s work.

ADMINISTRATIVE SPECIALIST II (BP97227PG8) – This merit position ensures the accurate development of the Commission’s agendas, the compilation of hard copy materials, and routinely coordinates with analysts, staff counsel, utilities and the public to ensure accurate and timely materials. In addition this position maintains and ensures time sensitive materials are provided to the Commission and State systems. Delays in replacing an employee in this role may result in inaccurate materials, inappropriate delivery delays, incorrect agendas and poor relationships with utilities and the general public. Incorrect agendas and, missing or delayed materials can certainly impact the proper conduct of the Commission’s work.

ADMINISTRATIVE SPECIALIST I (BP2237PG7) – This position copies and assembles Commission materials, arranges for deliveries, provides direct administrative support to the Commissioners for travel and meeting arrangements as needed, clears Commissioner expense accounts, and maintains timesheets and other system requirements. Delays in replacing staff in this position can result in added expense for changing reservations, missing or delayed information to Commissioners and incorrect timesheets, leading to potential incorrect utility billings. This position directly impacts the conduct of the Commission’s work.

SENIOR HEARING EXAMINER (BP56589PG20) – The Delaware Public Service Commission is a part time Commission and relies heavily on the ability to assign dockets to Hearing Examiners. This position functions under the Commission’s direct authority, addresses case pleadings, holds evidentiary hearings, issues orders and reports and generally serves as the Commission’s representative on major cases. Delays in replacing a qualified staff member in this role can have a major impact on the conduct of the Commission’s work and can require delays in case schedules depending on Commissioner availability. Scheduling delays result in poor service to regulated utilities and may lead to violations of statutory requirements for certain types of docketed cases.

PARALEGAL I (BP62530PG9) – This position supports both the Commission and the Senior Hearing Examiner by providing necessary legal research, legal administrative services and ensuring the accuracy and completeness of Freedom of Information Act (“FOIA”) materials being provided to the

public. This position also monitors the posting of legal document in the Commission's electronic filing system and supports Hearing Examiners during evidentiary hearings. The delay in replacing a qualified staff person in this position can result in scheduling delays, extended hearing timeframes, limited responses to FOIA requests and inaccurate or incomplete legal documents prepared for Commission actions. This position can directly impact the conduct of the Commission's work.

ENGINEER IV (BP2244PGG17) – This position at the Commission office is responsible for providing technical support on regulatory issues and managing the joint federal-state Pipeline and Hazardous Materials Safety Administration ("PHMSA") program. Duties include providing technical testimony, maintaining accreditation in federal pipeline safety programs and managing the overall PHMSA program, and ensuring routine inspections of pipeline companies. To manage the PHMSA program, this position must be certified as a professional engineer. Delays in replacing a qualified person in this position can result in lost federal funding, direct federal oversight of the PHMSA program in Delaware and limitations on technical testimony in utility rate cases. A qualified staff person in this position is essential to ensure gas pipeline safety in Delaware and to meet the staff obligation for technical review of utility applications. Delays in replacement of this individual will impact the conduct of the Commission's work and may result in federal program oversight.

Need For Declaration

Despite repeated attempts over the past three (3) months to secure approval to replace two (2) critical need positions at the Commission, the Executive Director and Secretary have been unable to secure Department of State, Human Resource approvals. The Human Resources team has now suggested that we specifically identify critical need positions, such that they may receive a higher priority in the review process. While documentation previously provided to the HR team noted the importance of these positions to the operation of the Commission, it was apparently not determined to be a critical need of the Commission.

Given the statutory authority of the Commission, and with respect to the positions needed to continue the proper conduct of the Commission's work, the Executive Director requests the Commission consider designating the above noted positions as critical to the proper conduct of the Commission's work. Attached for your consideration is a proposed Order No. 8659, which notes the Commission's authority and decision in this matter.